



RESPECTFUL WORKPLACE: Policy and Procedures

APPENDIX B: Frequently Asked Questions

1. How can I make sure my behavior is appropriate at all times?

- Avoid behavior that demeans, degrades, abuses or shows disrespect to any individual
- Recognize that the same remarks or gestures that seem acceptable to some people may be embarrassing or offensive to or unwanted by others.
- Consider how you would react if the same behavior were directed at your spouse, child or family member
- Ask yourself if you would act/ behave the same in front of your spouse, significant other or child
- Ask yourself how you would feel if your behavior were captured on video, reported in a news paper, or featured on the nightly news.

2. What if I didn't mean to harm or offend anyone?

- Even the best intended comment or action might be harassing, if it is unwelcome or offensive to another person.
- Harassment is not about a person's intent. It is about how the behaviour affects the victim. You may only have intended to be funny, for example; but if someone else is humiliated by what you did or said, you may have harassed them without meaning to.

3. Can it be harassment if it only happened once?

- Yes. Frequently, harassment is a series of incidents. However, even something that only happens once can be harassment if it was unwelcome to the person it was directed at.



4. What do I do if I am accused of Harassment?

- **TAKE IT SERIOUSLY!** Listen attentively when someone tells you that your actions or comments are unwanted, offensive or harassing. Remember that people with different values or backgrounds may perceive your behaviour as humiliating, threatening or insulting regardless of your intentions. Apologize for any discomfort or offense that you may have caused.
- **LEARN YOUR RIGHTS.** Refer to the Labrador School Board's *Respectful Workplace Policy* to learn about the rights, responsibilities and expectations of complainants and respondents.
- **AVOID RETALIATION.** Don't act in a way that could be seen as confronting or "getting back" at the victim/complainant. Avoid any behaviour that could be embarrassing or intimidating to the person that your actions have negatively affected.

5. What if someone at work tries to retaliate against a complainant?

- Employers are legally required to protect their employees from retaliation. Retaliation against anyone involved in a complaint will not be tolerated, and will have serious consequences. Generally, the penalties for retaliation are the same as for the original harassment, and may even be more severe.

6. What elements must I consider in the evaluation of my situation?

- The behavior has to be unwelcome or should be one that the individual knew or ought reasonably to have known was unwelcome.
- It is always preferable and encouraged to notify the respondent of the fact that his/her behavior (act, comment or display) is unwelcome or perceived as improper.
- The location outside the workplace may be irrelevant when your relationship at work is one where the respondent has influence or power over you with regard to career advancement, performance review, absenteeism, day to day management of activities, work assignments, the carrying out of progressive disciplinary measures and when the incident(s) leads to adverse job related consequences for you.
- In the case of sexual harassment particularly, a single incident may be viewed to be more significant in circumstances when your relationship at work is one where the respondent has influence or power over you with regard to career advancement, performance review, absenteeism, day to day



management of activities, work assignments and the carrying out of progressive disciplinary measures.

Note: Sexual and physical assaults are defined by the Criminal Code and will be dealt with according to that legislation. If you have been assaulted, you should seek assistance immediately and contact the police.

7. What if the harassment takes place outside the workplace, or after regular work hours?

- Any place or times that people are gathered for work-related reasons are still considered part of the “workplace”. This includes business travel, conferences, telephone calls, company social gatherings, and job interviews. Harassment is not permitted in any of these situations, and employers are responsible for dealing with it in these circumstances.

8. What do I do if I witness harassment?

- **DO NOT IGNORE IT!** Ignoring harassment implies tacit consent. Inform the victim that you have witnessed the incident and that they do not have to endure such behaviour. Refer the victim to the Labrador School Board’s ***Respectful Workplace Policy*** and suggest that they speak to their supervisor/manager/school administration. If you are the person in authority, you have an obligation to address the harassment issue.
- **SUPPORT THE VICTIM.** Do not try to play down what has occurred or blame the victim. Offer the victim your support and do not let them become isolated. Bring the matter to the attention of a person in a position of authority.

9. What must the employer do when there a harassment problem in the workplace?

- The employer must conduct an immediate and thorough investigation, followed by an appropriate remedy to correct the problem. This includes disciplining or terminating the harassing employee. If the individual doing the harassing is not an employee, the employer must address the problem directly with that individual and/or organization that he/she represents, and insure the conduct is stopped immediately. The employer’s response must be reasonably calculated to end the harassment and prevent it from happening again.



10. What if an employer doesn't deal properly with a problem of harassment?

- An employee who feels his or her concerns have not been properly addressed has the right to contact the appropriate human rights commission or other organization. If an outside agency determines that harassment has taken place, the employer may face financial or other consequences: giving an apology, compensating the complainant for lost wages and injury to self-respect, or human rights training, for example. The exact remedy will depend on the complaint.

11. Can my union help me?

- Unions can be involved in developing a Respectful Workplace or anti-harassment policy, and in educating union members. Once there has been a harassment complaint, an employee who is involved may be able to file a grievance with the union, *if the employer did not handle the complaint properly.*

12. If I report harassment, will the information provided be kept confidential?

- All information shall remain confidential to the greatest extent possible in accordance with the Access to Information and Protection of Privacy Act. Information is restricted to those who have a "need to know:" and may include fact-finders, the Center Respectful Workplace/Anti-Harassment Coordinator, witnesses, the alleged harasser, and supervisors who are required to take action on the matter raised.

13. How does a person know what behavior is unwelcome?

- Sometimes a person can say directly that something is offending or humiliating. Other times, we have to be aware of non-verbal messages and clues. If someone looks embarrassed or hurt, turns away, leaves the room, or avoids another, chances are they do not welcome certain behavior.
- The courts have created the "reasonable person" rule; in other words, we assume that a reasonable person would know that certain types of behavior are unwelcome. For example, a reasonable person would know that asking for sexual favors, and threatening someone's job if they do not comply, is unacceptable. In cases like this, the courts may presume the behavior was unwelcome, even if the complainant has never said "no" or "stop," and seemed to go along with the situation.



14. Is harassment just a matter of opinion?

- No. Because of variances in life experiences, different people may have different perceptions of what harassment is, but we can still develop some common understandings. Any unwelcome behavior that demeans, humiliates, or offends a person, or puts sexual conditions on a person's job, is harassment.

15. What if everyone else in the workplace is comfortable with the behavior?

- People react to behavior in different ways. A person may think her or his conduct is welcome or innocuous, when in fact the recipient dislikes it, but is going along with it to avoid a confrontation. This can happen especially where there is a difference in age, racial or cultural background, seniority, level of authority, or personal power between those concerned. Sometimes people feel they have to join in to avoid being ostracized, victimized, or teased by their peers. However, if you are uncomfortable with this behavior, you have the right to file a complaint and follow the steps outlined in this policy.

16. If I report harassment and then change my mind about going forward with the allegations, what happens?

- The Labrador School Board is still obligated to look into the allegations raised.

17. What happens to the people who complain of harassment in the workplace just to retaliate against someone they don't like or get along with?

- This is a very unusual situation and more likely to occur when employees are not informed about the definition(s) of workplace harassment. An explanation of the complaint procedure would discourage this type of complaint. Frivolous complaints could result in disciplinary procedures up to and including dismissal.



18. What protection is there for me if I am falsely accused of sexual harassment? My career and reputation could be ruined.

- The procedure for investigation is clearly laid out and investigations are to be done confidentially and impartially. If there is no merit to a complaint, this will be documented by report. It is important to understand the philosophy of the sexual harassment policy. The Company is required by statute to keep the work environment free of sexual harassment. All reasonable complaints must be investigated. Retaliation against any employee as a result of a complaint will not be tolerated. If you feel you are being treated unfairly after the initial complaint, you may complain of retaliation through the same procedure. Confidentiality is emphasized in every case to ensure protection of your reputation.

19. How can the investigation be kept confidential if everyone knows what is going on?

- Confidentiality is identified as a major concern in all interviews carried out as part of an investigation of any harassment complaint. The employee grapevine is a part of every company and certainly beyond our ability to control. It is the responsibility of the investigator to discuss the complaint only with those who might have knowledge of the situation. Please recognize if a complaint has no merit, there can be damage done to an individual who has been accused. We encourage those with information to support the complaint process and then to leave the conclusions to the investigators.

20. If someone tells a dirty or ethnic joke, is that harassment?

- Yes, inappropriate humour is a form of unacceptable behaviour that would be considered harassment. Humour is cherished in our society and no one likes to be accused of not having a sense of humour. If someone objects about the sexual nature of jokes, they have a right to complain. They should use discretion and keep humour appropriate to a work environment. A person has to be offended for a joke to be harassment. Use common sense.

21. Will the person who harassed me go to jail?

- If you have been sexually assaulted, a criminal action has occurred and the individual could face criminal charges. Sexual harassment is not considered under criminal law, but rather as a discriminatory employment practice. As an employer, our Company is required to obey applicable provincial and/or federal statutes protecting against discrimination in employment.



22. If I'm accused of sexual harassment, may I hire a lawyer?

- You may wish to consult with a lawyer. If you cooperate during the investigation, you should be able to expect fair treatment by the Board. Employees who ignore or abuse the investigative process will be subject to disciplinary procedures.

23. Could I be sexually harassed by someone of the same sex?

- Yes. Sexual harassment can include a homosexual or lesbian approach.

24. What about an employee who wears revealing or provocative clothing? Aren't they asking for it?

- This concern is misplaced. No employee should be subjected to harassment under any circumstances. Sexual harassment often is an expression of power - not sexuality, and a person who is dressing in any particular fashion is not necessarily a target. Individuals who do not report sexual harassment have sometimes expressed the feeling that their clothing, on some occasion, may have given a harasser the wrong impression.

25. How do you decide if it's sexual harassment if there were no witnesses and it's just one person's word against another?

- Many sexual harassers repeat their actions with other employees. Investigations can include former employees who have experienced this behaviour. Witnesses are not always required to establish what has occurred.

26. Where can I go for further information on harassment, sexual harassment, discrimination, rights, responsibilities, etc?

- Canada: Human Rights Act
- Newfoundland and Labrador: Human Rights Code
- Government of Newfoundland and Labrador: Harassment and Discrimination Free Workplace Policy (Creating a Respectful Work Environment)
- Employee Assistance Program ("EAP")
 - An Employee Assistance Program is available to all Labrador School Board staff. The EAP is a free of charge, confidential information, counselling and referral service for a broad range of personal and work-related concerns. Call **1-888-894-6795**.